

Legis. Prog.

August 21, 2007

## First Supplement to Memorandum 2007-27

**Legislative Program: Status of Bills**

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The staff has learned of a new proposal to assign a study to the Commission.

Assembly Bill 1610 (Núñez & Eng) addresses the maintenance of petroleum refineries. The bill was amended in the Senate on August 20, 2007. Among other changes, the following provision was added to the bill:

SEC. 2. Section 25361 is added to the Public Resources Code, to read:

25361. The California Law Revision Commission shall review all relevant state and federal laws, including, but not limited to, commission regulations, Division of Occupational Safety and Health regulations, State Air Resources Board regulations, California regional water quality control board regulations, and air pollution control and air quality management district regulations, as they pertain to refineries, and prepare a report to the Legislature by January 1, 2009, identifying the laws and regulations that may be in conflict.

A copy of the most recently amended version of the bill is attached. Note that the reference to “commission regulations” in that provision is a reference to the regulations of the State Energy Resources Conservation and Development Commission. See Pub. Res. Code § 25104 (“commission” defined).

The staff contacted Speaker Núñez’s office to ask for clarification of the intended scope and purpose of the study. The staff will report orally on this matter at the meeting.

Respectfully submitted,

Brian Hebert  
Executive Secretary

AMENDED IN SENATE AUGUST 20, 2007

AMENDED IN SENATE JULY 17, 2007

AMENDED IN SENATE JULY 5, 2007

AMENDED IN ASSEMBLY JUNE 6, 2007

AMENDED IN ASSEMBLY JUNE 4, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

## ASSEMBLY BILL

**No. 1610**

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**Introduced by Assembly Members Nunez and Eng**

February 23, 2007

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An act to add ~~Chapter 9 (commencing with Section 3890) to Division 3 of Sections 25360 and 25361~~ to the Public Resources Code, relating to fuels.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1610, as amended, Nunez. ~~California Petroleum Refinery Facilities Standards Board. Fuels: refineries.~~

(1) Existing law establishes the State Energy Resources Conservation and Development Commission (Energy Commission) in the Resources Agency, and specifies the powers and duties of the commission with respect to energy resources in the state. Existing law requires major oil producers, refiners, major marketers, major oil transporters, and major oil storers to supply to the commission weekly, monthly, and annually certain designated information regarding petroleum supplies.

This bill would ~~create the California Petroleum Refinery Facilities Board, and would~~ require an owner or operator of a petroleum refinery facility in the state to submit information to the ~~board~~ *Energy*

~~Commission relating to the capacity and operational status of the facility refinery. The board would be authorized to direct local air pollution control districts and air quality management districts to inspect petroleum refinery facilities within their districts. By imposing new duties on these local air districts, the bill would impose a state-mandated local program.~~

~~The bill would require the board to produce supply and demand forecasts for petroleum.~~

*The bill would require the Energy Commission to maintain records of refinery downtime, as the bill would define that term, for 5 years, and authorize the Energy Commission or its designee to undertake specified inspections of refineries and their documents.*

The bill would authorize the Energy Commission to request a petroleum refinery facility in the state to voluntarily adjust or delay a scheduled major maintenance.

The bill would subject violations of its provisions to specified civil and criminal penalties, thereby imposing a state-mandated local program by creating a new crime.

*The bill would require the Energy Commission to provide on a quarterly basis opportunity for public comment concerning gasoline prices and availability, and to report in writing to specified legislative committees, quarterly, certain information relating to refineries.*

*(2) The bill would require the California Law Revision Commission to review all relevant state and federal laws, as they pertain to refineries, and to prepare a report to the Legislature by January 1, 2009, identifying the laws and regulations that may be in conflict.*

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.~~

~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 25360 is added to the Public Resources*
- 2     *Code, to read:*
- 3         *25360. (a) As used in this section, "downtime" means any*
- 4         *period of inoperation of a refinery that reduces its normal capacity*
- 5         *to refine petroleum.*
- 6         *(b) An owner or operator of a refinery in this state shall report*
- 7         *to the commission all of the following:*
- 8             *(1) On a monthly basis, whether and to what extent, during the*
- 9             *preceding month, a refinery was down or operating at reduced*
- 10            *capacity and the reasons therefor. This accounting shall reflect*
- 11            *the actual downtime at each refinery. The report shall include all*
- 12            *of the following:*
- 13                 *(A) Reasons for each unscheduled downtime at each refinery.*
- 14                 *(B) Amount of product lost due to downtime.*
- 15                 *(C) Actions taken by the refinery and its parent company to*
- 16                 *minimize disruption of the market or price swings due to downtime.*
- 17                 *(D) Reasons for scheduled maintenance that took longer than*
- 18                 *scheduled.*
- 19                 *(E) Information on the type of each scheduled project at each*
- 20                 *refinery.*
- 21             *(2) On a daily basis, the operational status of each refinery.*
- 22             *(3) (A) On March 1 of each year, information regarding*
- 23             *scheduled major maintenance for the next 12 months and*
- 24             *projections for the next three years.*
- 25                 *(B) Estimated project timeline for listed scheduled major*
- 26                 *maintenance projects.*
- 27                 *(C) Estimated gasoline production loss due to downtime*
- 28                 *resulting from scheduled major maintenance projects.*
- 29                 *(D) If scheduled major maintenance projects reported pursuant*
- 30                 *to this paragraph take longer than scheduled, provide reasons for*
- 31                 *those extended maintenance periods.*
- 32             *(c) (1) The commission shall maintain records of refinery*
- 33             *downtime for five years.*

1     (2) *The commission, or its designee, may inspect the records,*  
2 *data, accounts, books, or documents of a refinery, if the inspection*  
3 *is reasonably related to the public interest of the people of the*  
4 *state.*

5     (3) *The commission shall not create a mandatory schedule of*  
6 *inspections described in paragraph (2).*

7     (d) *Information submitted to the commission pursuant to this*  
8 *section shall be held in confidence by the commission and Section*  
9 *25364 is applicable.*

10    (e) (1) *The commission, or its designee, may inspect and*  
11 *investigate a refinery within the state without notice, to ensure*  
12 *that the interests of California's citizens and consumers are served,*  
13 *protected, and represented in relation to the availability of*  
14 *gasoline.*

15    (2) *The commission may contract out inspections and*  
16 *investigations made pursuant to paragraph (1), if it is more cost*  
17 *efficient than the commission performing those inspections and*  
18 *investigations itself.*

19    (f) (1) *The commission may request a refinery in the state to*  
20 *voluntarily adjust or delay a scheduled major maintenance, if the*  
21 *maintenance is not a regulatory compliance, reliability, or safety*  
22 *repair.*

23    (2) *The refinery shall respond in writing within one week if the*  
24 *refinery denies the request and explain the grounds for refusal.*

25    (g) (1) *The commission shall provide on a quarterly basis an*  
26 *opportunity for public comment concerning gasoline prices and*  
27 *availability.*

28    (2) *The commission shall report in writing to the appropriate*  
29 *policy and fiscal committees of the Legislature, on a quarterly*  
30 *basis, aggregate maintenance information for the prior quarter,*  
31 *including, but not limited to, information concerning refinery*  
32 *downtime, scheduling, and coordination, and wholesale price*  
33 *fluctuations.*

34    (h) (1) *The commission shall notify a person who has failed to*  
35 *timely provide the information required by this section. If, within*  
36 *five days after being notified of the failure to provide the*  
37 *information, the person fails to supply the information, the person*  
38 *shall be subject to a civil penalty of not less than five hundred*  
39 *dollars (\$500), but not more than two thousand dollars (\$2,000),*  
40 *per day for each day the submission of information is refused or*

1 *delayed, unless the person has timely filed objections with the*  
2 *commission regarding the information and the commission has*  
3 *not yet held a hearing on the matter, or the commission has held*  
4 *a hearing and the person has properly submitted the issue to a*  
5 *court of competent jurisdiction for review.*

6 (2) *A person who violates this section is guilty of a misdemeanor*  
7 *punishable by imprisonment in the county jail for a period not to*  
8 *exceed one year, or by a fine of not more than ten thousand dollars*  
9 *(\$10,000), or by both that fine and imprisonment.*

10 (3) *The remedies and penalties provided by this section and*  
11 *Section 25362 are cumulative to each other.*

12 (i) *Nothing in this section shall result in the modification, delay,*  
13 *or abrogation of a deadline, standard, rule, or regulation adopted*  
14 *by a federal, state, or local agency for the purposes of protecting*  
15 *public health or the environment, including, but not limited to, a*  
16 *requirement imposed by the State Air Resources Board or by an*  
17 *air pollution control district or an air quality management district.*

18 SEC. 2. *Section 25361 is added to the Public Resources Code,*  
19 *to read:*

20 25361. *The California Law Revision Commission shall review*  
21 *all relevant state and federal laws, including, but not limited to,*  
22 *commission regulations, Division of Occupational Safety and*  
23 *Health regulations, State Air Resources Board regulations,*  
24 *California regional water quality control board regulations, and*  
25 *air pollution control and air quality management district*  
26 *regulations, as they pertain to refineries, and prepare a report to*  
27 *the Legislature by January 1, 2009, identifying the laws and*  
28 *regulations that may be in conflict.*

29 SEC. 3. *No reimbursement is required by this act pursuant to*  
30 *Section 6 of Article XIII B of the California Constitution because*  
31 *the only costs that may be incurred by a local agency or school*  
32 *district will be incurred because this act creates a new crime or*  
33 *infraction, eliminates a crime or infraction, or changes the penalty*  
34 *for a crime or infraction, within the meaning of Section 17556 of*  
35 *the Government Code, or changes the definition of a crime within*  
36 *the meaning of Section 6 of Article XIII B of the California*  
37 *Constitution.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in Senate,  
July 17, 2007. (JR11)**

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